IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 713 of 2000
Date of Decision: 23.4.2007

Bansi Lal ...Appellant

Versus

Haryana State and others ....Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri Jagbir Malik, Advocate, Advocate, for the appellant.

HEMANT GUPTA, J.

The plaintiff is in second appeal aggrieved against the judgment and decree passed by the learned first Appellate Court, whereby the suit for permanent injunction filed by the plaintiff was dismissed in appeal.

The learned first Appellate Court has found that the plaintiff has not claimed that the property ABCD falls in Khasra number 134 and the said Khasra number is owned by the State. In view of the said fact, the learned first Appellate Court found that the plaintiff is not entitled to any decree as the plaintiff is not claiming the suit property, as Khasra number 134 owned by the State.

Learned counsel for the appellant has vehemently argued that the finding recorded by the learned first Appellate Court that the defendants are owner of Khasra number 134 could not have been recorded as the Court could only opine about the rights of the plaintiff and not that of the defendants.

However, I do not find any substance in the argument raised by the learned counsel for the appellant. The effect of the decree passed by the learned first appellate Court is that the plaintiff is not entitled to the decree for permanent injunction in respect of the land comprising in Khasra number 134. It is wholly immaterial whether the defendants are declared to be owner of the suit land or not in as much as at least, the plaintiff is not entitled to a decree for injunction in respect of Khasra number 134.

In view of the above, I do not find any patent illegality or irregularity in the findings recorded by the first Appellate Court, which may give rise to any substantial question of law in the present appeal.

Hence, the present appeal is dismissed.

23-04-2007 (HEMANT GUPTA)
ds JUDGE